

Minutes of the Maine Real Estate Commission

OCTOBER 28, 2004

MEMBERS PRESENT

Earl Black
David Kitchen
Jeffrey Mitchell
Winfred Stevens

STAFF PRESENT

Carol Leighton, Director
Karen L. Bivins, Deputy Director
Judy Brown, Examiner
Robert Perkins, A.A.G.
Dennis Smith, A.A.G.
Susan Greenlaw, Secretary

MEMBERS ABSENT

Sharon Millett

Location: Central Conference Room

Start: 9:10 a.m.

Adjourn: 2:15 p.m.

Minutes – September 16, 2004

A motion was made by Jeffrey Mitchell and seconded by Winfred Stevens to approve the minutes of the September 16, 2004 meeting as written. Unanimous.

Agenda Modifications

A motion was made by Jeffrey Mitchell and seconded by Winfred Stevens to add the following to the agenda. Unanimous.

Proposed Dismissals

- #2003-040
- #2003-151
- #2004-030
- #2004-039
- #2004-079
- #2004-126

Hearings

The Chair opened the hearing in the matter of Allan Davis v. Director. Mr. Davis was not present nor represented by counsel. The Director was present and represented by Assistant Attorney General Dennis Smith. Assistant Attorney General Robert Perkins attended as counsel to the Commission. Public deliberations were conducted at the close of the hearing. A motion was made by Winfred Stevens and seconded by Jeffrey Mitchell to uphold the denial of Mr. Davis' application for Sales Agent license. Unanimous.

The Chair opened the hearing in the matter of Director v. Donald Rivers. The Director was present. Assistant Attorney General Robert Perkins attended as counsel to the Commission. Mr. Rivers was present. Public deliberations were conducted at the close of the hearing. A motion was made by David Kitchen and seconded by Winfred Stevens to find Mr. Rivers in violation of 32 M.R.S.A. §§13067(1)(D), (F) and 13197(1) . Unanimous.

A motion was made by David Kitchen and seconded by Winfred Stevens to order Mr. Rivers to pay a fine in the amount of \$1000 within 30 days, order the suspension of Mr. Rivers' designated broker license for a period of six months beginning 30 days after he receives the written Decision & Order, and order Mr. Rivers to submit course certificates documenting 15 clock hours of approved continuing education along with his renewal application and fee for his 2006 renewal. Stevens and Kitchen voted in the affirmative; Black and Mitchell opposed. Motion failed.

A motion was made by Jeffrey Mitchell and seconded by Earl Black to order Mr. Rivers to pay a fine in the amount of \$1000 within 30 days, order Mr. Rivers to successfully complete the Role of the Designated Broker course within 90 days, and order Mr. Rivers to submit course certificates documenting 15 clock hours of approved continuing education along with his renewal application and fee for his 2006 renewal. Unanimous.

A motion was made by Jeffrey Mitchell and seconded by Winfred Stevens to change the completion of the Role of the Designated Broker course within 90 days as opposed to 30 days. Unanimous.

The Chair opened the hearing in the matter of Director v. Gerald Nessmann. The Director was present. Assistant Attorney General Robert Perkins attended as counsel to the Commission. Mr. Nessmann was not present nor represented by counsel. Public deliberations were conducted at the close of the hearing. A motion was made by Winfred Stevens and seconded by Jeffrey Mitchell to find Mr. Nessman in violation of 32 M.R.S.A. §§13067(1)(F) and 13197(1). Unanimous.

A motion was made by Winfred Stevens and seconded by Jeffrey Mitchell to order Mr. Nessman to pay a fine in the amount of \$500 within 30 days. Unanimous.

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to order Mr. Nessman to submit course certificates documenting 15 clock hours of approved continuing education along with his renewal application fee for his July 2006 renewal. Unanimous.

Commission Decisions

A motion was made by Jeffrey Mitchell and seconded by Winfred Stevens to accept the decision in the matter of Director v. Christopher H. Longstaff. Unanimous.

A motion was made by David Kitchen and seconded by Winfred Stevens to accept the decision in the matter of Director v. Monica L. Bradshaw. Unanimous.

Consent Agreements

A motion was made by Winfred Stevens and seconded by Jeffrey Mitchell to accept the proposed Consent Agreements in case numbers 2002-031 and 2003-098. Kitchen recused and was not present for the motion and vote; Black, Mitchell, and Stevens voted in the affirmative; none opposed. Motion carried.

A motion was made by Winfred Stevens and seconded by Jeffrey Mitchell to accept the proposed Consent Agreements in case numbers 2004-098, 2004-112, 2004-113, and 2004-132. Unanimous.

Dismissed Complaints

A motion was made by David Kitchen and seconded by Jeffrey Mitchell to accept the proposed Dismissal in case number 2002-155. Black recused and was not present for the motion and vote; Kitchen, Mitchell, and Stevens voted in the affirmative; none opposed. Motion carried.

A motion was made by Jeffrey Mitchell and seconded by Winfred Stevens to accept the proposed Dismissals in case numbers 2001-001, 2002-159, 2003-118, 2003-031, 2003-033, 2004-040, 2004-080, 2004-087, 2004-089, 2004-103, 2004-106, 2004-115, 2003-040, 2003-151, 2004-030, 2004-039, 2004-079, and 2004-126. Unanimous.

Maine Association of Realtors® – Requesting Changes to License Law & Statute/Education Requirements

The Commission was provided with a letter submitted by the Maine Association of Realtors regarding suggested amendments to the license law. Linda Gifford attended as MAR representative for the discussion. Some suggestions outlined in the letter were to increase the number of continuing education credits to 21 hours; require sales agents to complete the core course; develop and require a mandatory core course for designated brokers. Other suggestions included increasing the number of required hours for pre-licensure; require an exam for the sales agent license but not associate broker; require a specific course curriculum for associate broker; review and remove the qualification that allows for no experience but instead degree courses to obtain a broker license. Commission members agreed to further explore the suggestions at their December meeting.

Director's Report

ARELLO Report – 2004 Annual Meeting: Carol Leighton attended the meeting and presented a written as well as an oral report on the highlights of the meeting.

The District I Meeting is scheduled for June 5-6, 2005 at the Portland Harbor Hotel, Portland, Maine.

Legislative Report – Arsenic and Real Estate Transactions: This was provided as an informational item.

PL 2003, Chapter 140 – Anne Head Memo: An informational letter and copy of law prepared by OLR Director Anne Head was distributed to the members.

Update – Draft Legislation: The Director met with the Department’s Acting Commissioner and reviewed the proposal. If the proposal is approved by the Governor’s office, the next step is to find someone to sponsor it.

The members agreed to approve out of state travel for one member to attend the Promissor Job Task Analysis meetings scheduled for November 18-19, 2004 in Las Vegas, Nevada.

Next Meeting Scheduled for November 18, 2004.

The meeting was adjourned at 2:15 p.m.

This report respectfully submitted,

Earl Black
Chairman

Carol J. Leighton
Director